

**New Hampshire Racing & Charitable Gaming Commission
Commission Meeting
Concord Office
January 19, 2011
11-01**

Present: Timothy J. Connors, Chairman
Warren W. Leary, Secretary
Michael J. Gatsas, Member
Lynn M. Presby, Member
Bernard A. Streeter, Member
Anthony B. Urban, Member
Charles Saia, Legal Coordinator
Steve Johnston, Supervisor Gaming Operations
Billie Jean Arseneault, Gaming/Licensing Supervisor
William Dewhurst, Sr. Auditor
Linda Glaser, Auditor
Shawn Graham, Auditor
Linda Darrow, Administrative Secretary

In Attendance: Edward Callahan, Daniel Mullen, Averill Cate, Nick Bonardi, Dick Bouley, Rick Newman, Jamie Timbas, Dan Brown, Kory Kamke, Sean Flanagan and others.

The Chairman called the meeting to order at 11:05 a.m. The Director and Deputy Director were absent due to attendance requirements at other meetings.

On a motion by Commissioner Presby, seconded by Commissioner Urban and unanimously voted to approve and place on file the Commission minutes dated December 17, 2010.

On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to accept and place on file the racing & charitable gaming statistics for the fiscal period ending January 9, 2011. It was noted that the statistics continue to trend downward.

The Games of Chance warning letters/late financials spreadsheets were reviewed. In the Deputy Director's absence, Legal Coordinator Saia provided the update. He stated that all responses had been received except for those with a due date of January 24th. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to accept and place on file.

The Games of Chance State Revenue spreadsheets were reviewed. On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to accept and place the spreadsheets on file.

Discussion ensued on the request by Mr. Marlin Torguson of Torguson Group to transfer the Belmont Gaming LLC cash bond to Torguson Group NH LLC, currently being held by the State Treasurer's for the benefit of the Commission. On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to request staff verify all obligations have been met by Belmont Gaming LLC, going back three months (one quarter), before transfer of the cash bond is considered. Once staff is satisfied that Belmont Gaming LLC has satisfied all

of its debts to the State of New Hampshire and the corresponding charitable organizations, then the staff may effectuate the transfer of the cash bond to Torguson Group NH, LLC.

Action Items:

a. *Status of Lucky 7 dispensing devices:* Legal Coordinator Saia stated a revised copy of the draft rules were submitted by Attorneys Mullen and Geiger as a result of a meeting that was held with the industry on January 4, 2011. (At this meeting, members of the industry, independent research laboratories, and others were in attendance, either in person or via telephone conference call. Mr. Gary Johnston of Arrow International stated he did not believe the Commission had the authority to approve the electronic Lucky 7 dispensing devices. He further stated that even if the rules were properly adopted, the NH Attorney General's Office, as has been the case in other states, may ultimately rule that the devices are illegal). Legal Coordinator Saia informed the Commission that another meeting is scheduled for the staff, and thereafter another public work session will be held, hopefully prior to the next Commission meeting. Copies of the draft rules submitted by Attorneys Mullen/Geiger were provided for informational purposes. Attorney Mullen asked the Commission to rule on whether or not the break open feature on the touch screen of the Lucky 7 dispensing devices fits with the current rules. Discussion ensued. On a motion by Commissioner Presby, seconded by Commissioner Streeter and unanimously voted to include language in the rules being drafted confirming the break open feature on the Lucky 7 dispensing devices fits with current statutes/ rules, and should be expanded and included in the proposed rules. This language will only pertain to Lucky 7 tickets and dispensing devices and no other forms of charitable gaming.

Correspondence was reviewed. On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to accept and place correspondence on file.

RCGC monthly activities for December 2010:

General:

- Responded to various requests from entities under RSA 91-A, NH Right-to-Know Law regarding Electronic Lucky 7 & Rules.
- Reviewed electronic pull tab machine rules submitted by legal representatives of manufacturers.
- Drafted and forwarded correspondence to licensee suspending Games Of Chance Licenses.
- Drafted and forwarded correspondence to the Claims Department of Western Surety advising Company of claim matter.
- Receipt and review of correspondence from legal representative re: reapplication of EPT for 2011 and same placed in Agenda. Receipt & review of 2011 application.
- Rules promulgation: Pari 1210.01 - awaiting comments from JLCAR. Editing remarks incorporated as requested by JLCAR; Pari 1212 - received and reviewed initial comments from JLCAR; other Matters to be considered for Rules
Pari 1004 - affidavit of charitable member/volunteer and preparation and submission of same for consideration to RCGC for 12/17/2010 meeting.
- Receipt of information, via licensee's website, regarding suspension of its simulcast operations. Review of various communications from licensee, analysis of applicable statutory and regulatory framework for ultimate disposition of racing license.
- Preparation of materials for non-public meeting scheduled for 12/01/2010.

- Research & review of racetrack matter (ejection and suspension). Various correspondences with racetrack management and alleged offender. Racetrack agrees to withdraw notice of ejection.
- Addressed various personnel matters.
- Prepared and submitted fiscal impact notes for LSRs received from the LBA.
- Reviewed bond issue with licensee and correspondence with bond co.

Administrative Staff Meetings/Training/Site Visits:

- Weekly visit to race tracks.
- Site visits to Seacoast Poker at North Hampton and Hampton Beach Facility.
- Attended G&C meeting for approval of ARCI dues.
- Various in-house staff meetings to address rules and other matters.
- Attended Gaming Regulatory meeting.

Licensing/ Enforcement:

- Review and issuance of totalisator company license.
- Issued (446) new and renewal licenses including (81) games of chance, (123) Bingo, (124) Lucky 7 and (118) game operators.
- Processed (428) financial reports for Bingo/Lucky 7 and Games of Chance.
- Conducted routine inspections of licensees conducted by agency inspectors.

The following is a summary of inspections conducted by the RCGC inspectors:

Inspectors	Bingo	Lucky 7	GOC	Total
Daniels	16	4	10	30
Janotta	18	2	10	30
Rheaume	14	9	20	43
White	14	4	17	35
Total	62	19	57	138

Accounting/Finance/Administrative:

- Monthly reconciliations of GOC data entry.
- Weekly or Bi-weekly receipt of payroll reports from racetracks.
- Resolving various discrepancies with vendors or other state agency billings.
- Cash balance report to Lottery.
- Resolving various issues with database entries/corrections.
- FY12/13 Budget work – 95% proposal, verification of salary amounts, analysis of dues payments made in FY10.
- Director & Commissioners' 2011 Financial Interest Statement Forms to Secretary of State's office, verified prior year filings on website are correct, emailed SOS office to make some corrections for errors.
- Commissioners' salary analysis for Fiscal Note.
- Revised telecommunication billing accounts.
- Analysis of licensee's revenues for FY10-FY13.

Audit:

- Reviewed and submitted the monthly Pari-Pool information.
- Continued work completing the first bingo audit.
- Reviewed Audit Program and selection procedures for 2011 audits.

- Lucky 7 Quarterly Reviews – collected responses from Charities and matched to vendor invoices; requested additional or corrected information as necessary.
- Reviewed proposed rules for Electronic Lucky 7 dispensing devices.
- Continued work on revising financial reporting forms and instructions.
- Pre-planning for the next Games of Chance audit.
- Compiled data on Game Operator liabilities to the state and charities.
- Reviewed operator's proposed game procedures and game schedules.
- Continued resolving Concord Bingo Too audit issues.
- Compiled proposals for legislative changes in 2011.
- Reviewed tax and charitable status of currently licensed charities to determine their continued eligibility.
- Continued work on our internal "Check Receipt Tracking" policy and reviewed other internal controls.
- Reconciled internal data bases to Lawson.

Old Business:

Legal Coordinator Saia stated the final proposal for Pari 1210, rules regarding submission, review and approval of Games of Chance procedures is on the JLCAR "Consent" calendar for Friday.

A letter from Mr. Rick Newman addressing the reasons Belmont Gaming decided not to participate in the Eastern Poker Tour was handed out. Discussion ensued. On a motion by Commissioner Gatsas, seconded by Commissioner Streeter and unanimously voted to accept and place on file.

New Business:

- Discussion ensued regarding how soon after games of chance are played do game operators pay charities. The game operators in attendance provided feedback on their individual process for paying the charities. Based on the discussion, it was determined there is no set rule for payment to charities. Commissioner Presby asked that staff contact game operators and work out a reasonable time-frame for paying the charities and report back at the next meeting. Sr. Auditor Dewhurst noted that Director Kelley is currently working with Senator Odell to address this issue. There are some initial proposals which would require that the game operators pay the charities in 5 days. Legal Coordinator Saia elaborated and explained that Senator Odell contacted Director Kelley at the beginning of this legislative session, since the Senator wished to further enact legislative amendments originally commenced with SB 367, which became law as of January 1, 2011. As such, the Senator is not interested in proposing a bill which expands gambling, but rather he asked Director Kelley if there are possibilities to further regulate charitable gaming, as well as if there are any possible revenue raising measures.
- Discussion ensued on increasing cash bonds and surety bonds for game operators to a minimum of \$50,000. On a motion by Commissioner Presby, seconded by Commissioner Urban and unanimously voted to maintain the status quo until the process for paying charities is finalized. Therefore, there is no increase to any of the cash bonds or surety bonds currently in place and posted by the game operators.
- As an fyi, Legal Coordinator Saia stated he was notified by Mr. Janotta, Gaming Enforcement Investigator that Seacoast Poker was running a promotion whereby each player in a poker tournament would receive a free chicken parmigiana dinner while

playing. Mr. Janotta's concern was whether this violated the 80% rule. Research was done and the dinner was determined to be a promotion rather than a prize. The applicable correspondence from Legal Coordinator Saia is made part of this record, for future reference

Liberty House, Inc. Hearing

At 11:53 a.m., Chairman Connors opened the hearing requested by Ms. Karen "Kay" McCarthy, Project Coordinator and Chairman of Fundraising for Liberty House, Inc. Ms. McCarthy was requesting an exemption to the statutory 60-day requirement of bona fide membership in order to play Bingo and to sell Lucky 7 tickets.

On a motion by Commissioner Gatsas, seconded by Commissioner Presby and unanimously voted to waive the 60-day requirement of bona fide membership for Liberty House, Inc., in this limited instance only.

Decision & Order

On January 19, 2011, the Racing and Charitable Gaming Commission (RCGC) convened a hearing regarding the matter of Liberty House, Inc. and the issuance of a Bingo and a Lucky 7 License to Liberty House, Inc. as a charitable organization.

At the hearing, a representative of the Liberty House, Inc. (Ms. Karen "Kay" McCarthy) was sworn in, allowed to review any evidence that was presented, allowed to ask questions and advised that she could be represented by counsel.

Ms. McCarthy petitioned the RCGC, and requested a waiver of the applicable statutory requirement, to wit: RSA 287-E :1 III, which states, in part...*"Bona fide member means a person who has held full and regular membership in the charitable organization for a period of not less than 60 days immediately prior to the bingo games..."*

The RCGC rendered its decision on January 19, 2011.

The Decision and Order of the Commission is as follows:

The Commission orders that the applicable licenses shall issue, forthwith, to Liberty House, Inc. as a Charitable Organization to conduct Bingo Games and to sell Lucky 7 tickets, in this limited instance only.

The issuance of the afore-mentioned licenses shall be subject to any and all agency requirements having been fully complied with by Liberty House, Inc.

So Ordered.

At 12:05 a.m., on a motion by Commissioner Streeter, seconded by Commissioner Urban and by a unanimous roll call vote the Commission voted to adjourn the regular meeting, and go into nonpublic session.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

At 12:15 p.m., on a motion by Commissioner Streeter, seconded by Commissioner Leary and by a unanimous roll call vote the Commission voted to come out of the nonpublic session, and permanently seal the nonpublic minutes.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

The next meeting is scheduled for Monday, February 14, 2011 at 11:00 a.m. in Concord. The Chairman closed the public meeting at 12:20 p.m.

Respectfully Submitted,

Warren W. Leary, Jr.
Secretary

Hi Paul,

Karl Janotta called me yesterday, and asked for my opinion regarding the following matter.

Seacoast Poker, LLC is running a promotion, whereby each player in a poker tournament will receive a free chicken parmigiana dinner, while he/she is playing. Karl was concerned that this could be a violation of the so-called 80% rule, because Seacoast is already paying out to the players the maximum amount of 80% in funds, and the addition of the dinner may exceed the 80%.

RSA 287-D-2 XIV states:

For games of chance where chips have no monetary face value, the payback in prizes shall not exceed 80 percent of the total amount collected from players.

Pari 1218.02 (d) states:

For all games of chance where chips have no monetary value, the total amount per game date of all monies received from the games including but not limited to buy-ins and re-buys minus the amount of prizes paid shall be allocated as follows...

Sudhir and I research and analyzed the matter. Black's Law Dictionary primarily defines prize as "anything offered as a reward or contest".

Seacoast is not awarding the dinner as a prize, as it is open to all tournament players, regardless of winning or losing. If you play, you receive the dinner. If Seacoast had advertised that the top three winners would receive the dinner, then there could be an issue, as it may be a prize.

A reading of our statute and rules indicate that a prize is a payback from the players' money. Seacoast is not offering a prize, but according to Karl, they are paying for the dinners from their own proceeds, not the players'.

In sum, Sudhir & I did not regard the dinner as a prize, but rather as a promotion from Seacoast to garnish business.

I relayed our opinion to Karl. If you believe that we erred in our judgment, I will contact Karl immediately.

Thanks.

Chuck